

Pt. 1904

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Subpart A—Purpose

§ 1904.0 Purpose.

The purpose of this rule (Part 1904) is to require employers to record and report work-related fatalities, injuries and illnesses.

NOTE TO §1904.0: Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits.

Subpart B—Scope

NOTE TO SUBPART B: All employers covered by the Occupational Safety and Health Act (OSH Act) are covered by these part 1904 regulations. However, most employers do not have to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics (BLS) informs them in writing that they must keep records. For example, employers with 10 or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OSHA injury and illness records.

§ 1904.1 Partial exemption for employers with 10 or fewer employees.

(a) *Basic requirement.* (1) If your company had ten (10) or fewer employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless OSHA or the BLS informs you in writing that you

must keep records under §1904.41 or §1904.42. However, as required by §1904.39, all employers covered by the OSHA Act must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees.

(2) If your company had more than ten (10) employees at any time during the last calendar year, you must keep OSHA injury and illness records unless your establishment is classified as a partially exempt industry under §1904.2.

(b) *Implementation*—(1) *Is the partial exemption for size based on the size of my entire company or on the size of an individual business establishment?* The partial exemption for size is based on the number of employees in the entire company.

(2) *How do I determine the size of my company to find out if I qualify for the partial exemption for size?* To determine if you are exempt because of size, you need to determine your company's peak employment during the last calendar year. If you had no more than 10 employees at any time in the last calendar year, your company qualifies for the partial exemption for size.

§1904.2 Partial exemption for establishments in certain industries.

(a) *Basic requirement.* (1) If your business establishment is classified in a specific industry group listed in appendix A to this subpart, you do not need to keep OSHA injury and illness records unless the government asks you to keep the records under §1904.41 or §1904.42. However, all employers must report to OSHA any workplace incident that results in an employee's fatality, in-patient hospitalization, amputation, or loss of an eye (see §1904.39).

(2) If one or more of your company's establishments are classified in a non-exempt industry, you must keep OSHA injury and illness records for all of such establishments unless your company is partially exempted because of size under §1904.1.

(b) *Implementation*—(1) *Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated*

by my company? The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be partially exempt.

(2) *How do I determine the correct NAICS code for my company or for individual establishments?* You can determine your NAICS code by using one of three methods, or you may contact your nearest OSHA office or State agency for help in determining your NAICS code:

(i) You can use the search feature at the U.S. Census Bureau NAICS main Web page: <http://www.census.gov/eos/www/naics/>. In the search box for the most recent NAICS, enter a keyword that describes your kind of business. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity, or refine your search to obtain other choices.

(ii) Rather than searching through a list of primary business activities, you may also view the most recent complete NAICS structure with codes and titles by clicking on the link for the most recent NAICS on the U.S. Census Bureau NAICS main Web page: <http://www.census.gov/eos/www/naics/>. Then click on the two-digit Sector code to see all the NAICS codes under that Sector. Then choose the six-digit code of your interest to see the corresponding definition, as well as cross-references and index items, when available.

(iii) If you know your old SIC code, you can also find the appropriate 2002 NAICS code by using the detailed conversion (concordance) between the 1987 SIC and 2002 NAICS available in Excel format for download at the "Concordances" link at the U.S. Census Bureau NAICS main Web page: <http://www.census.gov/eos/www/naics/>.

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